

THE STATE



OF WYOMING

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February 5, 1998

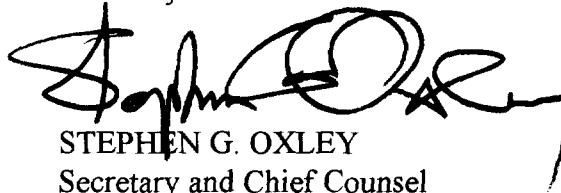
William F. Caton
Secretary
Federal Communications Commission
1919 M Street NW, Room 222
Washington DC 20554

RE: In the Matter of the Federal-State Joint Board on Universal Service
CC Docket No. 96-45 (Report to Congress)
Reply Comments of the Wyoming Public Service Commission

Dear Mr. Caton:

Enclosed herein is the original and seven (7) copies of the referenced Reply Comments of the Wyoming Public Service Commission. Thank you for your assistance in this matter.

Sincerely


STEPHEN G. OXLEY
Secretary and Chief Counsel

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

In the Matter of)
Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45
(Report to Congress)

Reply Comments of the Wyoming Public Service Commission

Dated: February 5, 1998

The Wyoming Public Service Commission (WPSC) hereby submits its reply comments to the Federal Communications Commission (Commission) in the above-captioned matter in response to the Commission's January 5, 1998, Public Notice DA 98-2 issued in connection therewith, as extended by the Commission in its Order of January 14, 1998.

As we stated in our Petition for Reconsideration to you of July 16, 1997, in this matter, and later in our Initial Comments, the hard facts remain true that [i] the percentage of universal service support the Commission proposes to provide by federal mechanisms remains inadequate and [ii] Wyoming does not have a sufficient revenue base to make up locally the substantial losses the Commission's proposed action will cause. These issues are critical to Wyoming and to other essentially rural states which, like us, have high costs. We reiterate. This matter is critical. It is a matter of simple mathematics. The Commission's actions will do harm to Wyoming; there are no reasonable alternative solutions; and the Commission's proposal violates both the letter and the spirit of the federal Telecommunications Act of 1996.

The WPSC is not alone in understanding the importance of these issues or the problem that is coming. The United States Telephone Association (USTA)

identified the substantial negative impact on rural carriers that the Commission's current proposals would have. The USTA correctly pointed out in its initial comments that: "... the Commission's approach, which leaves the bulk of support for the states to provide, will create an extreme hardship in rural states which do not have the resources to fund over 75 percent of the costs of providing universal service in rural areas."¹

The USTA also agrees with the WPSC in stating that the revenue base for funding federal universal support programs should include both interstate and intrastate revenues. Reliance upon interstate revenues only for the funding mechanism will create financial and operational hardships for rural states. "A state such as Wyoming, with less than 300,000 customers, does not have sufficient intrastate revenues to fund the state fund which would be necessary to maintain universal service under the Commission's decision."² The USTA is unfortunately exactly correct in its assessment of the predicament facing Wyoming. The Commission's current formula will cause such significant -- but needless -- difficulties for rural carriers and their customers that many companies may fail in their efforts to provide and maintain universal service. Because of the unique circumstances in providing service to rural areas, customers in rural areas will not be offered high quality, affordable service under the Commission's current funding plan. This will violate the directive ("*shall* base policies") of 47 U.S.C. § 254(b).

Companies doing business in rural areas of other states have also pointed out the faults in the Commission's universal service support decisions. Aliant Communications stated that the "... 75/25 funding split is of tremendous concern . . ."³ Aliant Communications has correctly observed, with respect to the

¹ Comments of the USTA in CC Docket No. 96-45 (Report to Congress), January 26, 1998, at 8.

² *Id.*

³ Comments of Aliant Communications Co. in CC Docket No. 96-45 (Report to Congress), January 27, 1998, at 3.

Commission's current policy, that "... excessive pressure on state universal service fund will force customers in sparsely populated states . . . to shoulder an unmanageable burden."⁴

U S WEST also clearly did not overemphasize the importance of the Commission's decision to severely limit the federal universal service support mechanism and the associated revenue base when it described the issue "... as the most critical of the topics and about which many carriers, states and members of Congress are concerned."⁵ U S WEST correctly observes that many of the states in its region "... lack the means and the population base to fund 75% of the costs of universal service in high-cost areas in their states."⁶ Clearly the Commission's current proposal for support mechanisms fails to recognize the geographic and economic problems inherent in providing service to high cost, rural areas. It also ignores the consequences.

Regarding the funding base, the Commission has clearly shown that it *knows* it has the power to assess both interstate and intrastate revenues to fund the federal portion of a universal service support program. The Commission has, in fact, adopted this combined revenues method to fund the schools and libraries support fund established in this universal service proceeding. It neglects to do so for the rural, high cost states.

Wyoming's Congressional delegation was unanimous when it expressed its great concern with the Commission's decision on the funding formula in its letter of July 23, 1997 to the Commission's then Chairman Reed Hundt (copy attached). For Wyoming, the Commission's policy of only funding 25 percent of universal service "... will have a clear, immediate and detrimental effect on phone rates." Further, 75

⁴ *Id.*

⁵ Comments of U S WEST in CC Docket No. 96-45 (Report to Congress), January 26, 1998, at 1.

⁶ *Id.* at 5.

members of Congress serving in the fourteen states in which U S WEST also serves have expressed their concerns to the Commission about the detrimental impacts of the Commission's current policies.

If the Commission continues unchanged its universal service funding policy, it will cause local rates in essentially rural and sparsely populated places, like Wyoming, to go up. Where high costs and small populations occur side by side, as they do in Wyoming, the burden will be very great. Congress did not intend to allow the Commission to do this when it enacted the federal Telecommunications Act of 1996. Neither prices nor services will be "reasonably comparable", in violation of 47 U.S.C. § 254(b)(3)⁷ and this standard is a *mandate*. It is not a guideline or a general statement of good feeling or a lofty but powerless sentiment. In our January 23, 1998, Comments, we discussed the other parts of 47 U.S.C. 254(b) which would be violated with respect to Wyoming if the Commission maintained its insistence on the 75/25 concept; and we will not repeat them here.


The federal Telecommunications Act of 1996 makes it abundantly clear that universal service requires universal cooperation. The many lucrative low cost, urban markets of the United States were intended to make individually small contributions to the cost of maintaining universal telecommunications service for those other areas of the nation where that cost is high. The framers of that law did not intend to erect a mechanism through which the interstate jurisdiction simply insulated itself from the harder economic facts of life. This is wrong. Congress did not intend the balkanization of the telecommunications system in the United States.


⁷ 47 U.S.C. § 254(b)(3) states that, regarding access in rural and high-cost areas, that; "Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas."

Wyoming's costs are high enough and its market is small enough that it cannot make up from local resources the difference between diminished federal support and actual need. Our state universal service fund cannot make up the shortfalls. Local rates in Wyoming will begin to be forced up, and the harmful effects that Congress thought that it had prevented will begin to occur. Your federal universal service support mechanism should be revised to alleviate the problems it will generate for high cost states.

Dated February 5, 1998.

Respectfully submitted,


STEVE ELLENBECKER
Chairman

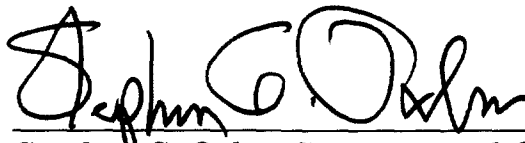

KRISTIN H. LEE
Deputy Chair


STEVE FURTNEY
Commissioner

CERTIFICATE OF SERVICE

I, Stephen G. Oxley, Secretary and Chief Counsel of the Wyoming Public Service Commission, do hereby certify, for myself and Carrol S. Verosky, Assistant Attorney General, that, on February 5, 1998, I filed and served true, complete and correct copies of the within and foregoing Reply Comments of the Wyoming Public Service Commission as required by the pertinent directives of the Federal Communications Commission applicable thereto.

WYOMING PUBLIC SERVICE COMMISSION

By: 
Stephen G. Oxley, Secretary and Chief Counsel
Public Service Commission
2515 Warren Avenue, Suite 300
Cheyenne, Wyoming 82002
(307) 777-7427

and

Carrol S. Verosky
Assistant Attorney General
Office of the Attorney General
Capitol Building
Cheyenne, Wyoming 82002
(307) 777-7837

United States Senate

WASHINGTON, DC 20510-5003

July 23, 1997

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
Suite 814
1919 M Street, NW
Washington, D.C. 20554

Dear Chairman Hundt:

Reforming our nation's universal service system is a tremendous challenge, and one that will have lasting implications for telephone customers in Wyoming and other rural states. In your work on the Joint Board, we encourage you to protect the interests of rural consumers and create a national high-cost fund that sends support dollars where they are needed most. By doing this, you will fulfill the clear mandate of the Telecommunications Act of 1996 and help sustain a truly national communications system available to all citizens.

In the face of declining telephone rate support, through federally mandated access charge reductions and new competitors targeting the most profitable markets and services, a sustainable universal service support mechanism is ever more important. We therefore view with great concern the current formula for universal service support: 25 percent of the funding comes from federal sources and 75 percent from the states.

In Wyoming, with its vast terrain and dispersed and relatively small population, a 75 percent state funding responsibility will have a clear, immediate and detrimental effect on phone rates. Although Wyoming has a universal service funding mechanism, it is beyond the capacity of Wyoming to absorb the huge increases in costs that a 25/75 split would create for it. It is clear to us that a federal universal service fund that pays only 25 cents on every dollar of high-cost telephone service will shortchange thousands of Wyoming telephone customers, and millions of others across the country.

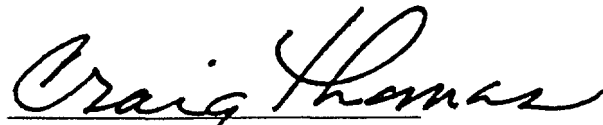
Universal telephone service is a national commitment requiring strong federal support. In that regard, the Telecommunications Act of 1996 envisioned a partnership between the states and the federal government to work together on the nation's telecommunications challenges. We urge you to adopt a national high-cost fund that provides all of the rate


The Honorable Reed E. Hundt
July 23, 1997
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support needed to keep Wyoming customers connected to the public telephone network. Only with a national fund available to all high-cost service providers can customers in our state be assured of affordable access to this vital communications link.

Thank you for your consideration of this matter. We hope you will join us in supporting a cooperative national solution for universal service.

Sincerely,


Craig Thomas
United States Senator


Michael Enzi
United States Senator


Barbara Cubin
Member of Congress

cc: The Joint Board on Universal Service